

REMARKS

Applicant has amended claims 21, 28, and 37, and have cancelled claims 1-20, 29, and 39-47, during prosecution of this patent application. Applicants are not conceding in this patent application that the subject matter encompassed by said amended and cancelled claims are not patentable over the art cited by the Examiner, since the claim amendments and cancellations are only for facilitating expeditious prosecution of this patent application. Applicants respectfully reserve the right to pursue the subject matter encompassed by said amended and cancelled claims, and to pursue other claims, in one or more continuations and/or divisional patent applications.

The Examiner provisionally rejected claims 21, 27, 29, 31, 32 and 35 on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 17, 19, 20, 21, 27 and 29 of copending Application No. 10/477,865.

The Examiner provisionally rejected claims 21, 30-32, 35, 37-38 and 40-47 on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 24-25 and 27-34, 36-42, 44-45, 47-49, 51-52 and 54-55 of copending Application No. 10/545,351.

The Examiner rejected claims 21-47 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holley et al. (US Patent 6,604,076), hereinafter Holley, in view of Wang et al. (US 2002/0083060), hereinafter Wang.

The Examiner rejected claims 28-29, 37, and 39 under 35 U.S.C. § 101.

Applicant respectfully traverses the, double patenting rejections, § 101, and § 103 rejections with the following arguments.

Double Patenting Rejections

Application No. 10/477,865

The Examiner provisionally rejected claims 21, 27, 29, 31, 32 and 35 on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 17, 19, 20, 21, 27 and 29 of copending Application No. 10/477,865.

Since claim 29 has been canceled, the rejection of claim 29 under nonstatutory obviousness-type double patenting is moot.

Applicant respectfully contends that claim 21 is not obvious over the claims of Application No. 10/477,865.

As a first example of why claim 21 is not obvious over the claims of Application No. 10/477,865, the claims of Application No. 10/477,865 do not disclose the feature: "wherein the columns of the Speech Hyperlink table **consist of** a column for storing hyperlinked terms, a column for storing universal times at which corresponding hyperlinked terms are recognized, and a column for storing network addresses linking corresponding hyperlinked term and a corresponding network address of a network" (emphasis added). The close-ended phrase "consist of" requires the Speech Hyperlink table to include the three recited columns and precludes the Speech Hyperlink table from including any columns other than the recited columns, which the claims of Application No. 10/477,865 does not teach or suggest.

As a second example of why claim 21 is not obvious over the claims of Application No. 10/477,865, the claims of Application No. 10/477,865 do not disclose the feature: "while a speech

is being spoken by a speaker, recognizing each hyperlinked term of the Speech Hyperlink table being spoken by the speaker, said recognizing being performed by a speech recognition system on a computing device". The Examiner's citation of "receiving a selection command of a topic relating to a broadcast program by recording in the universal-time table a time corresponding to perception of said topic" in the claims of Application No. 10/477,865 is not persuasive, because the Examiner's citation does not disclose that each hyperlinked term of the Speech Hyperlink table is recognized while a speech is being spoken by a speaker and also does not disclose that the recognizing is performed by a speech recognition system on a computing device.

As a third example of why claim 21 is not obvious over the claims of Application No. 10/477,865, the claims of Application No. 10/477,865 do not disclose the feature: "determining a universal time at which the hyperlinked term was recognized". The Examiner's citation of "determining a universal time corresponding to receipt of the selection command "the claims of Application No. 10/477,865 is not persuasive, because "a universal time at which the hyperlinked term was recognized" does not read on "a universal time corresponding to receipt of the selection command".

Based on the preceding arguments, Applicant respectfully contends that claim 21 is not obvious over the claims of Application No. 10/477,865. Since claim 27 depends from claim 21, Applicant respectfully contends that claim 21 is not likewise obvious over the claims of Application No. 10/477,865.

Applicant respectfully contends that claim 30 has not been rejected on the ground of nonstatutory obviousness-type double patenting over the claims of Application No. 10/477,865.

Therefore, Applicant respectfully contends that claim 30 is not obvious over the claims of Application No. 10/477,865. Since claims 31, 32 and 35 depend from claim 30, Applicant respectfully contends that claims 31, 32 and 35 are likewise not obvious over the claims of Application No. 10/477,865.

Application No. 10/545,351

The Examiner provisionally rejected claims 21, 30-32, 35, 37-38 and 40-47 on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 24-25 and 27-34, 36-42, 44-45, 47-49, 51-52 and 54-55 of copending Application No. 10/545,351.

Since claims 40-47 have been canceled, the rejection of claims 40-47 under nonstatutory obviousness-type double patenting is moot.

Applicant respectfully contends that claim 21 is not obvious over the claims of Application No. 10/545,351.

As a first example of why claim 21 is not obvious over the claims of Application No. 10/545,351, the claims of Application No. 10/545,351 do not disclose the feature: "wherein the columns of the Speech Hyperlink table **consist of** a column for storing hyperlinked terms, a column for storing universal times at which corresponding hyperlinked terms are recognized, and a column for storing network addresses linking corresponding hyperlinked term and a corresponding network address of a network" (emphasis added). The close-ended phrase "consist of" requires the Speech Hyperlink table to include the three recited columns and precludes the

Speech Hyperlink table from including any columns other than the recited columns, which the claims of Application No. 10/545,351 does not teach or suggest.

As a second example of why claim 21 is not obvious over the claims of Application No. 10/545,351, the claims of Application No. 10/545,351 do not disclose the feature: "while a speech is being spoken by a speaker, recognizing each hyperlinked term of the Speech Hyperlink table being spoken by the speaker, said recognizing being performed by a speech recognition system on a computing device". The Examiner's citation of "responsive to a command that selected the topic during the broadcast of the program on the channel, sending a first request for retrieving a universal-time and an address of a server associated with the channel" in the claims of Application No. 10/545,351 is not persuasive, because the Examiner's citation does not disclose that each hyperlinked term of the Speech Hyperlink table is recognized while a speech is being spoken by a speaker and also does not disclose that the recognizing is performed by a speech recognition system on a computing device.

As a third example of why claim 21 is not obvious over the claims of Application No. 10/545,351, the claims of Application No. 10/545,351 do not disclose the feature: "determining a universal time at which the hyperlinked term was recognized". The Examiner's citation of "receiving the universal-time ... said universal-time pertaining to when the command was performed" in the claims of Application No. 10/545,351 is not persuasive, because "a universal time at which the hyperlinked term was recognized" does not read on "said universal time pertaining to when the command was performed".

Applicant respectfully contends that claim 30 is not obvious over the claims of

Application No. 10/545,351.

As a first example of why claim 30 is not obvious over the claims of Application No. 10/545,351, the claims of Application No. 10/545,351 do not disclose the feature: "entering at least one selection command on an auditor device, said auditor device being a computing device". The Examiner does not allege that the claims of Application No. 10/545,351 disclose the preceding feature of claim 30.

As a second example of why claim 30 is not obvious over the claims of Application No. 10/545,351, the claims of Application No. 10/545,351 do not disclose the feature: "each selection command entered in real-time response to a spoken hyperlinked term of the speech". The Examiner does not allege that the claims of Application No. 10/545,351 disclose the preceding feature of claim 30.

As a third example of why claim 30 is not obvious over the claims of Application No. 10/545,351, the claims of Application No. 10/545,351 do not disclose the feature: "each spoken hyperlinked term appearing in a record of a plurality of records of a Speech Hyperlink-Time table comprised by a speech server". The Examiner does not allege that the claims of Application No. 10/545,351 disclose the preceding feature of claim 30.

As a fourth example of why claim 30 is not obvious over the claims of Application No. 10/545,351, the claims of Application No. 10/545,351 do not disclose the feature: "each record of the Speech Hyperlink-Time table comprising a hyperlinked term of the speech, a universal time at which the hyperlinked term was spoken during the speech, and a network address linking the hyperlinked term". The Examiner does not allege that the claims of Application No. 10/545,351 disclose the preceding feature of claim 30.

As a fifth example of why claim 30 is not obvious over the claims of Application No. 10/545,351, the claims of Application No. 10/545,351 do not disclose the feature: “for each selection command entered: determining a universal time at which the selection command was entered and recording the determined universal time in a record of a Selections Hyperlink-Time table comprised by the auditor device”. The Examiner’s citation of “storing, by the wireless device, the received address of the server, the received universal- time, and the retrieved one or plurality of hyperlinks in a selections table” in the claims of Application No. 10/545,351 is not persuasive, because the Examiner’s citation states nothing about the universal time other than the fact the universal time was received and recorded, and most certainly does not disclose that the universal time is a time “at which the selection command was entered”.

Based on the preceding arguments, Applicant respectfully contends that claim 30 is not obvious over the claims of Application No. 10/545,351. Since claims 31-32, 35, and 37-38 depend from claim 30, Applicant respectfully contends that claims 31-32, 35, and 37-38 are likewise not obvious over the claims of Application No. 10/545,351.

35 U.S.C. § 101

The Examiner rejected claims 28-29, 37, and 39 under 35 U.S.C. § 101.

Since claims 29 and 39 have been canceled, the rejection of claims 29 and 39 under 35 U.S.C. § 101 is moot.

As to claims 28 and 37, the Examiner argues: "applicant claims a computer program. Computer programs *per se* are not physical "things," they are neither computer components nor statutory processes, as they are not "acts" being performed. In other words, computer programs *per se* are nonfunctional descriptive material that does not constitute a statutory process, machine, manufacture or composition of matter: Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory."

In response, Applicants have deleted "computer program" from claims 28 and 37.

Accordingly, Applicants respectfully request that the rejection of claims 28 and 37 under 35 U.S.C. § 101 be withdrawn.

35 U.S.C. § 103(a)

The Examiner rejected claims 21-47 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holley et al. (US Patent 6,604,076), hereinafter Holley, in view of Wang et al. (US 2002/0083060), hereinafter Wang. 29 and 39-47.

Claims 21-29

Since claim 29 has been canceled, the rejection of claim 29 under 35 U.S.C. § 103(a) is moot.

Applicant respectfully contends that claim 21 is not unpatentable over Holley in view of Wang, because Holley in view of Wang does not teach or suggest each and every feature of claim 21.

For example, Holley in view of Wang does not teach or suggest the feature: “wherein the columns of the Speech Hyperlink table **consist of** a column for storing hyperlinked terms, a column for storing universal times at which corresponding hyperlinked terms are recognized, and a column for storing network addresses linking corresponding hyperlinked term and a corresponding network address of a network” (emphasis added).

The close-ended phrase “consist of” requires the Speech Hyperlink table to include the three recited columns and precludes the Speech Hyperlink table from including any columns other than the recited columns, which Holley in view of Wang does not teach or suggest.

Based on the preceding arguments, Applicant respectfully maintains that claim 21 is not unpatentable over Holley in view of Wang and that claim 21 is in condition for allowance. Since claims 22-28 depend from claim 21, Applicant contends that claims 22-28 are likewise in

condition for allowance.

Claims 30-47

Since claims 39-47 have been canceled, the rejection of claims 39-47 under 35 U.S.C. § 103(a) is moot.

Applicant respectfully contends that claim 30 is not unpatentable over Holley in view of Wang, because Holley in view of Wang does not teach or suggest each and every feature of claim 30.

As a first example of why claim 30 is not obvious over Holley in view of Wang, Holley in view of Wang does not teach or suggest the feature: “a Speech Hyperlink-Time table comprised by a speech server” and “a Selections Hyperlink-Time table comprised by the auditor device.

The Examiner cites Wang, Pars. [0105] and [0107] as allegedly disclosing both the Speech Hyperlink-Time table and the Selections Hyperlink-Time table as being represented by a report. The Examiner specifically argues: “It is noted that Wang does not specifically mention a record in the form of a table, however, it would have been obvious to a person having ordinary skill in the art at the time of the invention that, as described in paragraph [0105] and paragraph [0107], lines 9-14 and 19-22, a report is generated wherein all the information related to the recognition result is provided including the time of recognition and hyperlinks, and also it would have been obvious to choose any type of data structure, such as a table, list, or array, to better provide the information data in an organized manner”.

In response, Applicants assert that even if the format differences between a report and a table are obvious (which they are not), Applicant asserts that the report described in Wang, Pars.

[0105] and [0107] is only one report (and therefore only one table according to the Examiner's arguments. Therefore, Wang, Pars. [0105] and [0107] does not disclose the two distinct tables (the Speech Hyperlink-Time table and the a Selections Hyperlink-Time table) in two different locations (in the speech server and in the auditor device, respectively) recited in claim 30.

Therefore, claim 30 is not obvious over Holley in view of Wang.

As a second example of why claim 30 is not obvious over Holley in view of Wang, Holley in view of Wang does not teach or suggest the feature: "entering at least one selection command on an auditor device, said auditor device being a computing device, each selection command entered in **real-time response** to a spoken hyperlinked term of the speech, ... for each selection command entered: determining a universal time at which the selection command was entered " (emphasis added).

The Examiner argues that "Wang does teach ... for each selection command entered: determining a universal time at which the selection command was entered and recording the determined universal time in a record of a Selections Hyperlink-Time table comprised by the auditor device (Paragraph 0107), more specifically, lines 9-22, also paragraph [0105], more specifically, lines 8-16."

In response, Applicant respectfully contends that preceding language of claim 30 requires that the claimed universal time is a time at real-time response to a spoken hyperlinked term of the speech. In contrast, the universal time recited in Wang, Par. [0107] is "the time of recognition" which is not a time at a real-time response to the hyperlinked term of the speech(as required by claim 30), but rather is a time that is recognized by a recognition system at a time that is later than

a time at a real-time response to a spoken hyperlinked term of the speech, as explained in Wang, Par. [0104] (“In a real-time system, the sound is provided to the recognition system incrementally over time, enabling pipelined recognition. In this case, it is possible to process the incoming data in segments and to update the sample index set incrementally. After each update period, the newly augmented index set is used to retrieve candidate library sound recordings using the searching and scanning steps above. The database index is searched for fingerprints matching newly obtained sample fingerprints, and new (~~landmark~~, landmark*, sound_ID) triplets are generated. New pairs are added to the scatter lists, and the histograms are augmented. The advantage of this approach is that if sufficient data has been collected to identify the sound recording unambiguously, e.g., if the number of points in an offset bin of one of the sound files exceeds a high threshold or exceeds the next highest sound file score, then data acquisition can be terminated and the result announced.”).

Although the preceding quote from Wang, Par. [0104] refers to Wang’s overall inventive system as “real-time system”, it is clear from the description of the recognition system in Wang, Par. [0104] that the recognition system in Wang processes the generated sound data under delayed processing time (i.e., in segments incrementally over time and waits until “sufficient data has been collected to identify the sound recording unambiguously”). Therefore, Wang, Par. [0104] does not disclose that the “time of recognition” is a universal time at a real-time response to the hyperlinked term of the speech.

The preceding quote from Wang Par. [0104] not only recites the delayed time of recognition resulting from the delayed processing of sound data in segments over time increments by waiting until “sufficient data has been collected to identify the sound recording unambiguously”, but also explains the advantage of this delayed time processing in the last

sentence of Wang, Par. [0104] ("if the number of points in an offset bin of one of the sound files exceeds a high threshold or exceeds the next highest sound file score, then data acquisition can be terminated and the result announced"). Therefore, Wang, Par. [0104] teaches away from recognizing a universal time that is at a real-time response to the hyperlinked term of the speech.

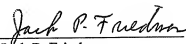
Therefore, claim 30 is not obvious over Holley in view of Wang.

Based on the preceding arguments, Applicant respectfully maintains that claim 30 is not unpatentable over Holley in view of Wang and that claim 30 is in condition for allowance. Since claims 31-38 depend from claim 30, Applicant contends that claims 31-38 are likewise in condition for allowance.

CONCLUSION

Based on the preceding arguments, Applicants respectfully believe that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicants invites the Examiner to contact Applicants' representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account 09-0457 (IBM).

Date: 07/28/2008



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